

BILL NO. S-74-05-41

SPECIAL ORDINANCE NO. S- 88-74

AN ORDINANCE approving an Agreement with
HIPSKIND ASPHALT CORPORATION for water
line modifications at Goshen and Harris Roads.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
WAYNE, INDIANA:

SECTION 1. The Agreement between HIPSKIND ASPHALT CORPORA-
TION and the City of Fort Wayne, by and through its Mayor and the Board of
Public Works to construct and install and furnish all necessary materials for the
following:

380[±] feet of 12" D.I. water main and its appurtenances beginning
at the existing water main located on the south side of Coliseum
Blvd. (west), northward across Coliseum Blvd. and across U.S.
Hwy. 30 & 33. Also 235[±] feet of 16" D.I. water main and its
appurtenances on Harris Road, beginning at the existing water
main located on the north side of U. S. 30 ByPass southward
across U.S. 30 ByPass

for a total cost of \$20,047.50, all as more particularly set forth in said Agreement,
which is on file in the Office of the Board of Public Works, and is by reference in-
corporated herein and made a part hereof, is hereby in all things ratified, con-
firmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and
after its passage and approval by the Mayor.


Councilman

APPROVED AS TO FORM
AND 
CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Steele, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City-Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 5-28-74

Charles W. Teterman
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Steele, and duly adopted, placed on its passage. Passed (~~LOST~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____	to-wit:
BURNS	<u>X</u>	_____	_____	_____	_____
HINGA	<u>X</u>	_____	_____	_____	_____
KRAUS	<u>X</u>	_____	_____	_____	_____
MOSES	<u>X</u>	_____	_____	_____	_____
NUCKOLS	<u>X</u>	_____	_____	_____	_____
SCHMIDT, D.	<u>X</u>	_____	_____	_____	_____
SCHMIDT, V.	<u>X</u>	_____	_____	_____	_____
STIER	<u>X</u>	_____	_____	_____	_____
TALARICO	<u>X</u>	_____	_____	_____	_____

DATE: 6-11-74

Charles W. Teterman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 8-88-74 on the 11th day of June, 1974.

ATTEST: (SEAL)

Charles W. Teterman
CITY CLERK

Samuel J. Talarico
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of June, 1974, at the hour of 2:00 o'clock A. M., E.S.T.

Charles W. Teterman
CITY CLERK

Approved and signed by me this 12th day of June, 1974, at the hour of 2:00 o'clock P. M., E.S.T.

Jack H. Brown
MAYOR

Bill No. S-74-05-41

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee City Utilities to whom was referred an Ordinance
approving an Agreement with HIPSKIND ASPHALT CORPORATION for water line
modifications at Goshen and Harris Roads.

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance 07 PASS.

Paul M. Burns - Chairman

James S. Stier - Vice-Chairman

Vivian G. Schmidt

Donald J. Schmidt

Eugene Kraus, Jr.

CONCURRED IN

DATE 6-11-74 CHARLES W. WESTERMAN, CITY CLERK

AGREEMENT

FOR CONSTRUCTION OF 12" & 16" STUBS ACROSS U.S. 30 BY-PASS

CONTRACT NO. 74-1

THIS AGREEMENT, made this 22nd day of May, 1974, by and between HIPSKIND ASPHALT CORP., herein called the Contractor, and CITY OF FORT WAYNE, an Indiana Municipal Corporation, herein called Owner,

WITNESSETH, that the Contractor and the Owner for the considerations hereinafter named, agree as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall construct and install and furnish all necessary materials for the installation of 380± feet of 12" D. I. water main and its appurtenances beginning at the existing water main located on the south side of Coliseum Blvd. (west), northward across Coliseum Blvd. and across U.S. Hwy. 30 & 33. Also 235± feet of 16" D. I. water main and its appurtenances on Harris Road, beginning at the existing water main located on the north side of U. S. 30 ByPass southward across U.S. 30 ByPass and do everything required by the contract documents and this agreement.

ARTICLE 2. TIME OF COMPLETION

The work to be performed under this contract shall be commenced immediately upon notice to proceed and the work shall be completed within thirty (30) consecutive calendar days after receipt of material.

ARTICLE 3. THE CONTRACT SUM

The Owner shall pay the Contractor for the performance of the contract the sum of \$20,047.50. In event the amount of work is increased or decreased by the Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's proposal.

ARTICLE 4. PROGRESS PAYMENTS

The Owner shall make payments on account of the contract as provided therein, as follows:

On or about the 15th day of each month, ninety percent (90%) of the value of the work performed up to the first day of that month (based on the contract prices of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the Owner, less the aggregate of previous payments.

ARTICLE 5. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and the contract is fully performed.

ARTICLE 5. ACCEPTANCE AND FINAL PAYMENT (continued)

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Engineering Department of the Owner shall promptly make such inspection, and when it finds the work acceptable under the contract and the contract fully performed, it shall promptly issue a final certificate stating that the work provided for in this contract has been completed and is accepted, and the entire balance of the contract sum shall be due and payable to the Contractor.

At the time said payment is due and payable, the Contractor shall furnish the Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, materials, or equipment for the work have been fully paid.

ARTICLE 6. GUARANTEE OF MATERIALS AND WORKMANSHIP

Contractor guarantees all materials and work against defects for a period of one year after the date of the acceptance of the work.

ARTICLE 7. THE CONTRACT DOCUMENTS

The Instructions to Bidders, Specifications, Contractor's Proposal, Bond and this Agreement form the contract, and they are as fully a part of the contract as if hereto attached or herein repeated. The following is an enumeration of these documents:

- A. Instructions to Bidders for Contract No. 74-1
- B. Contractor's Proposal dated April 9, 1974.
- C. Contractor's Bond.
- D. Supplemental Specifications for U. S. 30 ByPass Main Adjustments and Detailed Specifications and Conditions for the installation of Transmission and Distribution Mains, Contract No. 74-1, and Fort Wayne Water Utility, Engineering Department Drawing No.Y-10468, Sheets 2 of 4.
- E. All materials shall be in accordance with Fort Wayne Water Utility, Engineering Department, Water Main Materials Standards, dated November 28, 1973, except as modified in the Supplemental Specifications.

ARTICLE 8. ADJUSTMENT OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the Owner, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 9. INDEMNITY

Contractor shall indemnify the Owner against any claim or loss incurred or arising out of the performance of the work as provided herein.

ARTICLE 10. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by it's Mayor and Board of Public Works, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within sixty (60) days after the date hereof, then this contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

HIPSKIND ASPHALT CORPORATION

By: [Signature] DUP

CITY OF FORT WAYNE, INDIANA

By: _____

Ivan A. Lebamoff, it's Mayor

BOARD OF PUBLIC WORKS

Jerry D. Boswell, Chairman

[Signature]

Ronald L. Bonar

William G. Williams

ATTEST:

Edna I. Smith, Clerk

APPROVED AS TO FORM AND LEGALITY:

[Signature]
APPROVED By The Common Council of the City of Fort Wayne, Indiana on _____
_____ 1974, Special Ordinance No. _____

TRINITY UNIVERSAL INSURANCE COMPANY

Dallas, Texas

KNOW ALL MEN BY THESE PRESENTS, That we,

HIPSKIND ASPHALT CORPORATION

(hereinafter called "Principal"), as Principal, and TRINITY UNIVERSAL INSURANCE COMPANY, a Corporation organized and existing under the laws of the State of Texas, and authorized to transact business in the State of Indiana (hereinafter called "Surety"), as Surety, are held and firmly bound unto CITY OF FORT WAYNE

(hereinafter called "Obligee"), as Obligee, in the penal sum of

TWENTY-ONE THOUSAND DOLLARS AND NO CENTS

Dollars (\$ 21,000.00), good and lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally firmly by these presents.

WHEREAS, the above bounden Principal has entered into a certain written contract with the above named Obligee, dated the 16th day of MAY 1974, to do and perform the following work:

Construction of water lines for the City.

which contract is hereby referred to for more complete information and is hereinafter referred to as the contract.

NOW, THEREFORE, the condition of this obligation is such that, if the Principal shall faithfully perform the contract on his part, and shall fully indemnify and save harmless the Obligee from all cost and damage which the Obligee may suffer by reason of failure so to do and shall fully reimburse and repay the Obligee all outlay and expense which the Obligee may incur in making good any such default, then this obligation shall be null and void, otherwise it shall remain in full force and effect. No right of action shall accrue under this bond to or for the use of any person, firm or corporation other than the said Obligee.

AND PROVIDED that no suit shall be commenced under this bond after the expiration of one year from the accrual of the cause of action; provided, however, that if such limitation is prohibited by any law controlling the construction thereof, such limitation shall be deemed amended so as to equal the minimum period permitted by such law; but if there is any maintenance or guarantee period provided in the contract for which said Surety is liable, an action for maintenance may be brought within six months from the expiration of the maintenance period, but not afterwards.

SIGNED AND SEALED this 16th day of May A. D. 1974

HIPSKIND ASPHALT CORPORATION

TRINITY UNIVERSAL INSURANCE COMPANY

By Terrence J. Ward, Attorney-in-Fact.



POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That TRINITY UNIVERSAL INSURANCE COMPANY, a Texas Corporation, in pursuance of authority granted by that certain resolution adopted at a regular meeting of its Board of Directors, held at the office of the Company, in the City of Dallas, Texas, on the twenty-third day of January, 1937 and of which the following is a true, full and complete copy:

Resolved, That the President, any Vice-President, or any Secretary of this Company be and they are hereby authorized and empowered to make, execute and deliver in behalf of the Company unto such person or persons residing within the United States of America, as they may select, its Power of Attorney constituting and appointing each such person its Attorney-in-Fact, with full power and authority to make, execute and deliver, for it, in its name and in its behalf, as surety, any particular bond or undertaking that may be required in the specified territory, under such limitations and restrictions, both as to nature of such bonds or undertakings and as to limits of liability to be undertaken by the Company, as said officers may deem proper, the nature of such bonds or undertakings and the limits of liability to which such powers of attorney may be restricted, to be in each instance specified in such Power of Attorney."

amended at a regular meeting of its Board of Directors held at the office of the Company, in the City of Dallas, Texas, on the seventeenth day of October, 1962, and of which the following is a true, full and complete copy:

RESOLVED, That any and all Attorneys-in-Fact and officers of the Company, including Assistant Secretaries, whether or not the Secretary is absent, be and are hereby authorized and empowered to certify or verify copies of the By-Laws of the Company as well as any resolution of the Directors, having to do with the execution of bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, or with regard to the powers of any of the officers of the Company or of Attorneys-in-Fact.

RESOLVED, That the signature of any of the persons described in the foregoing resolution may be facsimile signatures as fixed or reproduced by any form of typing, printing, stamping or other reproduction of the names of the persons hereinabove authorized.

does hereby nominate, constitute and appoint:

TERRENCE J. WARD - FORT WAYNE, INDIANA

its true and lawful Attorney-in-Fact, to make, execute, seal and deliver for and on its behalf, as surety in the United States of America:

Any and all bonds unlimited as to amount and to be given for the following purposes only, to-wit: Guaranteeing the fidelity of persons holding places of public or private trust; Guaranteeing the performance of contracts for public or private construction, including supply contracts; and all other bonds and undertakings required or permitted in all actions or proceedings or by law required.

PROVIDED, No authority is extended for the execution of Open Penalty Bonds

No authority is given to execute any bond wherein said attorney-in-fact appears as a party at interest either as principal or obligee.

And the execution of such bonds or undertakings, in pursuance of these presents, shall be as binding upon the said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the said Company at its office in Dallas, Texas, in their own proper persons.

In witness whereof, TRINITY UNIVERSAL INSURANCE COMPANY has caused its corporate seal to be hereto affixed and these presents to be duly executed by its proper officer this 16th day of July, 19 71.

Attest:

TRINITY UNIVERSAL INSURANCE COMPANY

L. C. Templeton
L. C. Templeton, Secretary

Frank M. Miller
Frank M. Miller,
Vice-President

(SEAL)

State of Texas
County of Dallas

On this day personally appeared before me, a Notary Public, in and for the County of Dallas, the above named officer of TRINITY UNIVERSAL INSURANCE COMPANY, who, being duly sworn by me, did depose and say that he is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of the said Company, and that the said corporate seal and his signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company.

Witness my hand and seal, this 16th day of July, 19 71.

(SEAL)

My commission expires June 1, 1975

G. E. Carson, Jr. Notary Public

I, the undersigned, L. C. Templeton Secretary of TRINITY UNIVERSAL INSURANCE COMPANY, do hereby certify that the original POWER OF ATTORNEY, of which the foregoing is a full, true and correct copy, was signed by the Officers and Notary Public whose names are shown above and that it is in full force and effect.

In witness whereof, I have hereunto subscribed my name and affixed the corporate seal of the Company, this _____

day of _____, 19 _____.

(Seal)

L. C. Templeton
Secretary

CERTIFIED COPY OF POWER OF ATTORNEY
SEE CERTIFICATION

DIGEST SHEET

S-74-05-41

TITLE OF ORDINANCE: Contract with Hipskind Asphalt (water line modifications)DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Contract provides for Hipskind Asphalt Corporation to
make certain water line modifications required by the reconstruction by the
State of U.S. 30 Bypass. It covers the installation of a 12" stub at Goshen
Road and a 16" stub at Harris Road. Bids were advertised but only one was
received.

EFFECT OF PASSAGE: Water main adjustments necessary before widening of area
of U.S. 30 Bypass.

EFFECT OF NON-PASSAGE: Probable adjustments necessary after new pavement is in.

MONEY INVOLVED (Direct Costs, Expenditures, Savings): _____

Cost to Water Utility \$20,047.50.

ASSIGNED TO COMMITTEE (J.N.): _____

City Utilities